

REMARKS

The Official Action asserts that the claims are not in §112, sixth paragraph format because the claims include structural limitations. With regard to claim 5, the Official Action asserts that the limitation that the programmable device is a timer is a structural limitation that limits the claimed reading means and the claimed programming means. Reconsideration of this assertion is respectfully requested because the claims are directed to a system that includes reading means and programming means that selectively activate a function in a programmable device that is a timer (note that the programmable device is the timer; the programming means is not the timer). The limitation that the programmable device is a timer is not a structural limitation that is part of the definition of the programming means or of the reading means. A claim may include structural limitations that do not affect the interpretation of separately defined means-plus-function limitations. That is, the means-plus-function limitations are considered individually when evaluating whether §112, sixth paragraph is applicable. The fact that the system selectively activates a function in a programmable timer, does not limit application of §112, sixth paragraph to the reading and programming means that are in the system.

Claim 10 does not include the timer. Claim 10 includes reading means for receiving an information carrier that has memory with a numerical value stored therein. Note that the information carrier has the memory, not the reading means. Accordingly, claim 10 also does not include structural limitations that would limit application of §112, sixth paragraph, to the claimed reading means and to the claimed programming means.

Claim 12 is not in §112, sixth paragraph form and is not to be interpreted under §112, sixth paragraph.

Accordingly, §112, sixth paragraph, is applicable to claims 5 and 10 and not to claim 12.

Claims 2-5 and 10 were rejected under §112, second paragraph. The Official Action asserts that claim 5 is confusing because it contradicts the specification. Please note that claim 5 is directed to a system that includes the claimed reading and programming means, where the system is for selectively activating a function in a programmable timer that is at least temporarily coupled to the programming means (that is, the programmable timer is a feature that is defined separately from the reading and programming means). This is supported by the specification at, for example, page 3, lines 16-17, and page 4, lines 9-10. The statement in the Official Action that claim 5 is a single means claim is simply not understood as the claim clearly recites that

the system includes two separate reading and programming means. A further explanation is respectfully requested if this rejection is repeated.

Claims 5 and 10 are alleged to be confusing because the claims do not include links among the programmable device, the reading means and the programming means. These claims are in means-plus-function format and therefore inherently include the links necessary to perform the recited functions. Further definition is not required in this type of claim.

Reconsideration and withdrawal of the rejection under §112, second paragraph, are respectfully requested.

Claim 13 has been added, leaving claims 2-5, 10 and 12-13 in the application.

Claims 2-5, 10 and 12 were rejected as anticipated by TSUNOKAWA et al. 5,546,446. Reconsideration and withdrawal of the rejection are respectfully requested.

TSUNOKAWA et al. describes how a prepaid telephone card is debited in accordance with a telephone call being made by a telephone set. This telephone set is capable of receiving the prepaid card (i.e., the information carrier) and is able to deduct the appropriate rate from a balance stored on the card. However, during this debiting process the telephone set gains no additional functions. Initially the telephone basically

possessed the ability to engage in a telephone call and afterwards this basic function has not been upgraded such that new functions are possible with the same telephone set.

The reference does not disclose that the functionality of a device may be altered or upgraded by means of a programming device, where the fee for upgrading or altering the functionality is deducted from an information carrier.

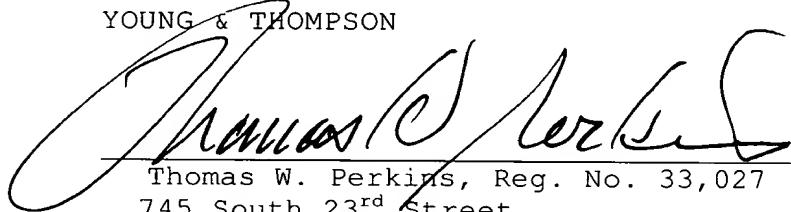
That is, the reference does not disclose a programming means that modifies a numerical value in accordance with the functions activated in the programmable device. TSUNOKAWA et al. modifies a numerical value, but the modification is not in accordance with functions that are activated in the programmable device. There are no functions activated in a programmable device in the system in TSUNOKAWA et al.

With specific reference to claims 10 and 12, the reference does not disclose that previously unavailable functions have been made available by being purchased and activated in the programmable device. The telephone in TSUNOKAWA et al. does not gain previously unavailable functions through use of the prepaid telephone card. It's still just a telephone in which the ability to make telephone calls was previously available.

In view of the foregoing remarks, it is believed that
the present application is in condition for allowance.
Reconsideration and allowance are respectfully requested.

Respectfully submitted,

YOUNG & THOMPSON

A large, stylized handwritten signature in black ink, appearing to read 'Thomas W. Perkins', is written over a horizontal line.

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